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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,444	08/31/2001	Susumu Fujioka	RCOH-1036	2864
21302	7590	03/02/2004	EXAMINER	
KNOBLE, YOSHIDA & DUNLEAVY			HAVAN, THU THAO	
EIGHT PENN CENTER			ART UNIT	PAPER NUMBER
SUITE 1350, 1628 JOHN F KENNEDY BLVD			2672	5
PHILADELPHIA, PA 19103			DATE MAILED: 03/02/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/944,444	FUJIOKA ET AL.
	Examiner	Art Unit
	Thu-Thao Havan	2672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

#### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 August 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 37-44 is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) 3-12, 15-24 and 26-36 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 August 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

The Examiner accepts the drawings.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

**Claims 1-2, 13-14, and 25-26** are rejected under 35 U.S.C. 102(e) as being unpatentable by Luke et al. (US patent no. 6,081,253).

Re claim 1, Luke discloses a method of selecting an optimal color with respect to a background color using Munsell color-order system (col. 3, line 65 to col. 4, line 8), the Munsell color-order system being represented in a three dimensional space around an achromatic axis in a vertical direction the vertical direction representing a predetermined lightness range of lightness levels a horizontal direction representing a predetermined saturation range of saturation levels a circumference around the achromatic axis representing a predetermined hue range of hue levels (col. 29, lines 55-66; col. 30, line 1), comprising selecting a first point in the Munsell color-order system as a first color (col. 9, line 64 to col. 10, line 43), selecting a second point in the Munsell color-order system as a second color at a predetermined relative distance from the first point the first point

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and the second point forming a relative distance line the second color being sufficiently distinctive in combination with the first color for desired human perception (col. 34, line 43 to col. 35, line 53), and determining an optimal color range of colors from the second point in the Munsell color-order system the second color being selected from the optimal color range (figs. 9a-11d). In other words, Luke teaches color systems in which all reproducible colors are arranged in a three dimensional color solid so that colors progressively change in lightness vertically, in saturation horizontally and in hue as the solid is rotated. After all planes are generated, they are arranged by the ratio of j to g or g to j, and occasionally by the ratio of L to j or L to g. This puts the planes in order by hue, so they move in an orderly fashion through color space. In the cases where g is not zero, the ratio j/g is used and the individual colors are placed on a j Chart where L is plotted vertically and J is plotted horizontally. In cases where g is zero, the ratio g/j is used and colors are plotted on a g Chart with L vertical and g horizontal. In those cases where j and g are zero or when colors that differ widely would be placed next to one another in both a j and a g chart, colors are determined by L/j or L/g and the colors are plotted on an L chart with g vertical and j horizontal.

Re claims **2, 14, and 26**, Luke discloses the first point is off the achromatic axis a first distance and a second distance being defined from the achromatic axis respectively to the first point and the second point the first point and the second point forming a perpendicularly intersecting line that intersects the acromatic axis and is perpendicular to the achromatic axis (fig. 7a-7b). In figures 7a-7b, Luke illustrates the arrangement of planes within the OSA-UCS color solid when viewing the horizontal j,g plane from

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above. Figure 7b illustrates of the arrangement of planes within the OSA-UCS solid when viewing the vertical I, j plane from the red, or -g, side.

Re claims **13 and 25**, the limitations of claims 13 and 25 are identical to claim 1 above. Therefore, claims 13 and 2 are treated the same as discussed with respect to claim 1 above.

### **Allowable Subject Matter**

Claims **3-12, 15-24, and 27-44** are allowed.

The following is an examiner's statement of reasons for allowance:

The prior art of record fails to anticipate or rendered obvious the technical features of the second point being selected at a point in the Munsell color-order system so that a ratio of the first distance over the second distance is equal to or more than four. Furthermore, the prior art of record fails to teach the second point being selected at a point in the Munsell color-order system so that a ratio of the first distance over the second distance is equal to or less than one-fourth.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ichimura et al., US patent no. 5,032,483

Rice et al., US patent no. 6,563,510

Rice et al., US Patent No. 6,632,093

Pace et al., US Patent No. 6,491,750

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Ogawa et al., US Patent No. 6,306,409

Young, US Patent No. 5,416,848

### **Inquiries**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu-Thao Havan whose telephone number is (703) 308-7062. The examiner can normally be reached on Monday to Thursday from 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi can be reached on (703) 305-4713.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Thu-Thao Havan  
Art Unit: 2672  
February 18, 2004

*Jeffrey A. Brin*  
JEFFREY A. BRIN  
PRIMARY EXAMINER